

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SOUTHERN CALIFORNIA DEVELOPMENTAL
HEALTH SERVICES, INC.

and

Cases 31--CA--16421 and
31--CA--16430

TEAMSTERS LOCAL NO. 186, AFFILIATED
WITH THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA, AFL--CIO

SUPPLEMENTAL DECISION AND ORDER

By Chairman Stephens and Members Cracraft and Paudabaugh

On August 16, 1988, the National Labor Relations Board issued a Decision and Order ¹ directing the Respondent, inter alia, to make whole the discriminatees for any losses resulting from the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the National Labor Relations Act. The United States Court of Appeals for the Ninth Circuit entered a judgment by default on January 31, 1989, enforcing the Board's Order.² A controversy having arisen over the amount of backpay due under the Board's Order, the Acting Regional Director for Region 31 on March 28, 1990, issued a backpay specification and notice of hearing alleging the amounts of backpay due and notifying the Respondent that the Respondent should file a timely answer.³ Despite being reminded by letter dated November 9, 1990, of the need to answer the specification, the Respondent failed to file an answer.

¹ 290 NLRB No. 97.

² No. 88--7474.

³ According to the Motion for Summary Judgment and supporting exhibits, the backpay specification and notice of hearing were initially sent by mail to
(Footnote continued)

On November 26, 1990, the General Counsel filed a Motion for Summary Judgment. On December 6, 1990, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Respondent filed no response to the Motion for Summary Judgment.⁴ The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.56 of the National Labor Relations Board's Rules and Regulations, in pertinent part, states:

(a) . . . Each respondent . . . shall, within 21 days from the service of the specification, file . . . an answer thereto

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

The backpay specification served on the Respondent states that,

'pursuant to Section 102.54 of the Board's Rules and Regulations,'⁵

Respondent shall file with the undersigned Acting Regional Director, acting in this matter as agent of the National Labor Relations Board, an

George R. Ryskamp, Esq., then counsel for the Respondent. By letter dated May 14, 1990, Ryskamp declared that he no longer represented the Respondent. The General Counsel's affidavit of service indicates that thereafter, by certified mail, the Regional Director served the backpay specification and notice of hearing on Gary Phillip Gill, the Respondent's executive director.

⁴ According to the General Counsel's certificate of service form, the Motion for Summary Judgment, with exhibits, was sent by certified mail, return receipt requested, to Gary Gill on November 26, 1990.

⁵ Now Sec. 102.56. The Board amended its rules governing compliance with Agency orders effective November 13, 1988, so that the substance of former Sec. 102.54 has been incorporated into Sec. 102.56 as revised. The specification's erroneous reference to former Sec. 102.54 is, therefore, without prejudice to the Respondent.

original and four copies of an answer to said backpay specification within 21 days from the service thereof. To the extent that such answer fails to deny allegations of the Backpay Specification in the manner required under the Board's Rules and Regulations, and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and the Respondent shall be precluded from introducing any evidence controverting them.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the backpay specification. Moreover, the Respondent has not shown good cause for the failure to file an answer. We therefore deem the allegations in the backpay specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment.

ORDER

The National Labor Relations Board orders that the Respondent, Southern California Developmental Health Services, Inc., Camarillo, California, its officers, agents, successors, and assigns, shall make whole the following discriminatees,⁶ by payment of the amounts set forth in the backpay specification, plus interest to be computed in the manner prescribed in New

⁶ A sixth discriminatee, Bruce Pickrell, was not available for employment during the backpay period and has not suffered any loss of pay during the backpay period.

for the Retarded,⁷ until payment of all backpay is made,⁸ less tax

withholdings required by Federal and state laws:

Lesi Crowell	\$ 5100
Brenda McMillian	3600
Gwenndolyn Thompson	5100
Vincent Woodward	4500
Benjamin Long	1480

Dated, Washington, D.C. January 31, 1991

James M. Stephens, Chairman

Mary Miller Cracraft, Member

John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

⁷ 283 NLRB 1173 (1987).

⁸ The General Counsel reserved for future determination any amounts owing by Respondent for periods subsequent to May 22, 1987.